

## **Agenda Item 6.5**

# Seminar on UNCLOS and other international legal frameworks governing the protection of the coastal and marine environment.

## **Background**

1. The UN Convention on the Law of the Sea (UNCLOS), which embodies a package of rights and obligations<sup>1</sup>, continues to provide the legal backdrop in which states conduct their maritime affairs. It is also recognized as the legal framework for the conservation and sustainable use of the oceans and their resources<sup>2</sup>.
2. The recommendations to the sixty-ninth session of the UN General Assembly by the Ad Hoc Open-ended Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction reaffirms the relevancy of UNCLOS in matters relating to the conservation of the marine environment, and underscores the significance of the use of, *inter alia*, environmental impact assessments, marine-managed/protected areas, and an intellectual property rights/access-benefit sharing regime in protecting these areas.

## **Objectives**

The Seminar aims to:

- 1) provide AMS the opportunity to learn from and tap on the expertise of resource persons on issues such as access-benefit sharing, prioritization and protection of sea-space, and transboundary EIAs
- 2) share and exchange views and ideas on the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction;
- 3) explore new potential regional activities in relation to conservation of the marine environment, and underscores the significance of the use of, *inter alia*, environmental impact assessments, marine-managed/protected areas, and an intellectual property rights/access-benefit sharing regime in protecting these areas

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<sup>1</sup>*The role of UNCLOS in sustainable development*, Miguel de Serpa Soares, introductory remarks made at OLA/DOALOS side event

<sup>2</sup>Paragraph 158 of A/Conf.216/L.1, *The future we want*.

## Activities

In order to achieve the said objectives, the Seminar will be divided into three sessions that correspond to issues under UNCLOS in relation to biodiversity and conservation in transboundary areas:

### Session 1: Marine Genetic Resources

This session aims to provide an overview of, and a platform for an exchange of views and knowledge on, the issues pertaining to marine genetic resources as it relates to UNCLOS.

**What are marine genetic resources? Is a new regime necessary? What would an access-benefit sharing scheme for these resources in areas beyond national jurisdiction look like?**

1. While the Nagoya Protocol covers resources which are within national boundaries, there is currently no such regime for resources found outside of national jurisdiction – with the exception of the Area (refer to Part XI of UNCLOS). This meant that the principle of the common heritage of mankind only applied to the Area and not to the rest of the high seas.
2. A new access-benefit regime that applies to resources in areas beyond national jurisdiction would also require some form of clearing house mechanism/regulator, similar to what the International Seabed Authority is currently tasked to do for activities in the Area.

### Session 2: Prioritisation and the protection of sea-space.

This session aims to provide an overview of, and a platform for an exchange of views, opinions and best practices (if any) on the implementation UNCLOS related to marine conservation in transboundary areas, and to identify gaps in the implementation of the instruments.

**What are the directions provided by international instruments and existing management tools, what are the gaps, and is there a need for more?**

3. Several treaties instruments provide guidance for coastal States to manage and conserve areas of the marine environments. However, difference in the objectives pursued translates into differences in guidance terms. They include:
  - Ecologically or Biologically Significant Marine Areas (EBSAs)<sup>3</sup> under the Convention on Biological Diversity,

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<sup>3</sup>For EBSA criteria, see COP 9 Decision IX/20 of the CBD.

<http://www.cbd.int/decision/cop/default.shtml?id=11663>



- Migratory routes and habitats of species protected under the Convention on Migratory Species,
  - Wetland of importance under the Ramsar Convention,
  - Areas of Outstanding Universal Value under the World Heritage Convention,
  - Areas of Particular Interest under the International Seabed Authority,
  - Vulnerable Marine Ecosystems under the Food and Agriculture Organisation (Fisheries and Aquaculture), and
  - Special Areas under MARPOL and Particularly Sensitive Sea Areas (PSSA) under the IMO regulations.
4. What are the main differences between the guidance provided in these instruments with respect to the selection of conservation areas and with respect to the activities which may or should be restricted? How can these instruments be implemented concurrently by States?

### **Session 3: Transboundary Environmental Impact Assessments (EIAs) and EIAs in areas beyond national jurisdiction.**

This session aims to provide an overview of, and a platform for an exchange of views and knowledge on the possible implementation of transboundary Environmental Impact Assessments (EIAs) and EIAs in areas beyond national jurisdiction.

5. The legal basis for the role of EIAs can be found in many international frameworks. It is thus unsurprising that EIAs, or the lack thereof, are often a point of contention during transboundary environmental disputes. Since most international frameworks merely calls for the conduct of an EIA, a survey of the case-law would assist to inform States of the standards and due process required to successfully withstand the scrutiny of the Court/Arbitral Panel as well as the other party.
6. Similar to the issue of Access-Benefit Sharing, it seems that there needs to be a central clearing house, as well as global standards/criteria, to assess EIAs relating to areas beyond national jurisdiction.

### **Centre for International Law (National University of Singapore) Resource Persons**

1. Ashley ROACH  
Captain, JAGC, USN (ret.), Office of the Legal Adviser, U.S. Department of State (retired)
2. Assoc Prof Robert C. BECKMAN  
Director
3. Youna LYONS  
Senior Research Fellow



## **Participants**

Since the issues on coastal marine environment under the UNCLOS may be under the purviews of different agencies in AMS, and in order to strengthen cooperation among sectors both regionally and nationally in the context of UNCLOS, and to provide added value to institutional capacity building, we strongly encourage the AWGCME National Focal Points (NFPs) to extend the invitation to other Agencies in AMS whose purviews are strongly relevant to the topics of this seminar.

## **Logistic Arrangements**

The Seminar will be held back to back with 16<sup>th</sup> Meeting of AWGCME.

Unfortunately there is no financial support available for the participants. Singapore as the host will provide meeting packages (lunch and coffee break) during the Seminar.

## **Seminar details**

Date: 16 June 2015

Duration: 10:30am to 5:30pm

## Annex 1

### TENTATIVE AGENDA

Seminar on UNCLOS and other international Legal frameworks Governing  
the Protection of the Coastal and Marine Environment

Time	Activities	Moderator	Resource Person
10.30-12.15	Session 1: <b>Access-Benefit Sharing Scheme for Marine Genetic Resources in areas beyond National Jurisdiction</b>  60-minute lecture  45-minute discussion/exercise		Designated Resource Person (CIL)
12.15-13.30	Lunch Break		
13.30-15.15	Session 2: <b>Transboundary Environmental Impact Assessments (EIAs)</b>  60-minute lecture  45-minute discussion/exercise		Designated Resource Person (CIL)
15.15 -15.30	Coffee Break		
15.30- 17.15	Session 3: <b>Prioritisation and the Protection of Sea-Space</b>  60-minute lecture  45-minute discussion/exercise		Designated Resource Person (CIL)
17.15-17.30	Wrap Up Session/ Conclusion Remarks	Singapore	